

BEFORE THE
COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

)
Investigation by the Department on its own motion as to)
the propriety of the rates and charges set forth in the)
Following tariffs: M.D.T.E. Nos. 14 and 17, filed with the) D.T.E. 98-57
Department on August 27, 1999, to become effective on)
September 27, 1999, by New England Telephone)
And Telephone Company d/b/a Bell Atlantic-Massachusetts)

REPLY BRIEF OF
SPRINT COMMUNICATIONS COMPANY L. P.

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Dated: February 17, 2000

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SPRINT COMMUNICATIONS COMPANY L.P.

Pursuant to the Revised Procedural Schedule dated January 10, 2000, Sprint Communications Company L.P. ("Sprint") hereby files its Reply Brief in the above-referenced proceeding.

INTRODUCTION

As Sprint and other parties demonstrated in their initial briefs, Bell Atlantic-Massachusetts' ("Bell Atlantic's") proposed Tariff 17 contains numerous provisions that are anti-competitive and unfair to CLECs. As discussed by Sprint and other parties, these provisions in Tariff 17 will impede CLEC efforts to compete in the local market in Massachusetts. Accordingly, the Department should not approve Tariff 17 and require Bell Atlantic to resubmit the tariff in a form addressing the deficiencies identified by Sprint and other parties.

I. ARGUMENT

A. THE DEPARTMENT SHOULD AFFIRM ITS PREVIOUS REJECTION OF BELL ATLANTIC'S GRIP PROPOSAL

In Tariff 17 Bell Atlantic proposes to require CLECs to establish multiple "geographically relevant interconnection points" ("GRIP"). As noted in Sprint's Main Brief, this GRIP proposal has already been addressed by the Department, and was rejected. In Greater Media Telephone, Inc., D.T.E. 99-52 and MediaOne Telecommunications of Massachusetts, Inc., D.T.E. 99-42/43 (Partially Consolidated Order dated August 25, 1999), the Department rejected Bell Atlantic's proposals to require CLECs to establish multiple geographically relevant interconnection points in each LATA. Order at 37-45.

Since Bell Atlantic cannot dispute the fact that the Department has already substantively addressed its GRIP proposal, it resorts to legal chicanery in an attempt to resurrect this issue. First Bell Atlantic claims that its GRIP proposal does not contravene the Department's Order because that Order would apply to the

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parties to the arbitration, and not necessarily to all CLECs electing to subscribe to interconnection provisions under Tariff 17. Bell Atlantic Initial Brief at 60. However, under Bell Atlantic's logic, the CLEC in the arbitration would not have to abide by the GRIP proposal, while other CLECs would not. Such an application of an interconnection policy would be patently discriminatory. Also, the mere fact that the issue was addressed in an arbitration should have no bearing on the ultimate decision on the issue. In other words, just because the issue was addressed in an arbitration does not grant Bell Atlantic the right to raise the issue again in a later proceeding. While the results of an arbitration may not technically be binding on other CLECs, it seems unfair that the Department would address an issue in an arbitration, address it again in a later proceeding, and come to a different conclusion based on the same facts. Such a result would be unfair to the party who prevailed in the arbitration. The fact remains that Bell Atlantic was a party to the arbitration, and, therefore, has had its bite at the apple.

Bell Atlantic argues that Department did not give due consideration to the transport costs borne by Bell Atlantic. Bell Atlantic Initial Brief at 60. If Bell Atlantic was concerned about transport costs, then it should have fully developed the issue at that time in the arbitration. Bell Atlantic had the burden of presenting its case, and had the opportunity to do so. It is certainly disingenuous for Bell Atlantic to claim in this proceeding that transport costs is a "critical" issue if it failed to develop the issue earlier in the arbitration.

Bell Atlantic also cites from a recent New York arbitration order in an unsuccessful attempt to buttress support for its GRIP proposal. Bell Atlantic Initial Brief at 63. Such reliance is misplaced, however, since the New York Commission has not ruled on the GRIP issue, and Bell Atlantic conveniently omits the New York Commission's admonition not to prejudge the results of the arbitration. The New York Commission specifically stated in the referenced arbitration that "[a] full examination of the GRIP proposal will be conducted in Case 98-C-1357 and it would be improper to prejudge the results of the proceeding here." Case 99-C-1389, Order Resolving Arbitration Issues, at 13 (January 28, 2000).

Bell Atlantic additionally overlooked the New York Commission's express rejection of the GRIP proposal in an earlier proceeding, which Sprint cited in its Main Brief. See Sprint Main Brief at 7 (citing Case 99-C-0529, Proceeding on Motion of the Commission to Reexamine Reciprocal Compensation, Opinion and Order Concerning Reciprocal Compensation, issued and effective August 26, 1999 at 59).

Bell Atlantic has failed to provide any justification for the Department to change its earlier ruling on the GRIP issue. Therefore, the Department should adhere to its original decision to reject GRIP.

B. BELL ATLANTIC FAILS TO PROVIDE ANY BASIS FOR THE ADDITIONAL 20-DAY COLLOCATION RESPONSE PERIOD

Bell Atlantic acknowledges that it must provide to CLECs space availability information for collocation in 10 business days. Bell Atlantic Brief at 46. However, Bell Atlantic continues to advocate an additional 20-day period "for additional research on space availability." Id at 46. Bell Atlantic avers that it needs this time to perform such as work as researching building plans, checking on status of building codes, determining if administrative offices or equipment storage can be moved to another location, determining if HVAC can be brought to a new part of the building, etc. What Bell Atlantic fails to address is what work it performs in the initial 10-day period. Presumably the same type of work would be performed in the initial 10-day period. If Bell Atlantic is implying it cannot meet the 10-day requirement, then it needs to take the issue up with the Department and the FCC. As previously discussed, the Department and the FCC have already expressly held that 10 days is an adequate period of time for space availability review. Unless and until the FCC rules otherwise, Bell Atlantic must meet the 10-day period. The proposed additional 20-day period circumvents this requirement and should not be permitted by the Department. By adopting a more reasonable time period, the Department can facilitate competition by ensuring timely access to provisioned collocation space.

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C. BELL ATLANTIC'S ESCORT REQUIREMENT SHOULD BE REJECTED

In Tariff 17 Bell Atlantic proposes that Bell Atlantic must provide an escort to accompany CLEC personnel when accessing all manhole and vault locations. Bell Atlantic acknowledges that the FCC rejected such an escort requirement, but maintains that no charge will apply only if the CLEC visits other areas outside of the collocation space of the central office. Bell Atlantic Initial Brief at 40.

As Sprint presented in its Main Brief, the FCC is unequivocal that an incumbent LEC must provide CLECs' access to their equipment at all times without either a security escort or any other type of security that would delay a CLEC's employees' entry into the incumbent LEC's premises. The fact that Bell Atlantic offers not to charge for this escort does not mean that an escort is suddenly transformed into a valid security requirement. While that resolves the cost issue, it does not address the delay it will cause CLEC employees in accessing their equipment. Bell Atlantic argues that it has no incentive to cause delays. Even conceding that this is the case, unintentional or inadvertent delays on the part of Bell Atlantic would also result in CLECs being unable to service and maintain equipment or respond to customer outages in a timely manner. The Department should reject Bell Atlantic's attempt to circumvent the FCC ruling.

CONCLUSION

Based on the foregoing, Sprint recommends the Department adopt the modifications to Bell Atlantic's proposed Tariff 17 as set forth in its Main and Reply Briefs.

Respectfully submitted,

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